

WESTERN UNION TELEGRAPH CO.

FEBRUARY 27, 1958.—Committed to the Committee of the Whole House and ordered to be printed

Mr. BURDICK, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 10094]

The Committee on the Judiciary, to whom was referred the bill (H. R. 10094), for the relief of the Western Union Telegraph Co., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide that the Comptroller General shall settle and adjust the claim of the Western Union Telegraph Co. based on a shortage of that company's funds at Fort Sheridan, Ill., resulting from the misappropriation of that money by an employee of the Department of the Army. The bill provides that the Comptroller General is to allow in full and final settlement of the claim the sum of not more than \$7,643.05, and states that a sum sufficient to pay the claim is to be appropriated.

STATEMENT

The bill, H. R. 10094, was introduced in the form suggested by the Comptroller General in a report and recommendation of the United States General Accounting Office to the Congress dated September 4, 1957. The recommendation was that an appropriation in the amount of \$7,643.05 be made for the payment of the claim of the Western Union Telegraph Co. for that amount on account of a loss of funds received for the account of that company by authorized personnel of the Army at Fort Sheridan, Ill.

On August 10, 1950, the United States and the Western Union Co. entered into a contract under which the United States granted permission to the company to use Government-owned equipment and

facilities for the establishment and maintenance of circuit facilities and equipment to connect Army and Air Force posts, camps, or stations to commercial telegraph facilities. This license was amended on March 21, 1951, to provide that military personnel could use those facilities for unofficial messages when the facilities were not in official Government use. Responsibility for the collection and the remittance of charges for this unofficial service was placed in the respective post signal officers by Army Special Regulations SR 105-20-3 which prescribed detailed procedures for the handling and payment of such funds.

A shortage was discovered in these funds at Fort Sheridan, Ill., and a board of officers was convened to determine the loss of funds in the post signal communications account and to fix the responsibility for the loss. The investigation showed that the Western Union Telegraph Co.'s outstanding and unpaid account against the Fort Sheridan Signal Office amounted to \$8,417.49. The board further found that a civilian telephone supervisory employee of the Department of the Army had converted the funds received for the account to her own use, and falsified the records pertaining to those funds. Of the amount outstanding, \$774.44 has been stated in favor of the Western Union Telegraph Co. by the General Accounting Office, and the company has agreed to accept the additional sum of \$7,643.05 in full and final settlement of the claim. However, there is no appropriation available for the payment of the claim since the claim did not arise from a transaction for which funds had been appropriated.

The General Accounting Office has determined that there is no apparent negligence on the part of the Western Union Telegraph Co. Further the General Accounting Office has concluded that the Government's responsibility for the funds attached immediately upon their receipt. On this basis it was concluded that the claim contained the elements of legal liability justifying the consideration of Congress. The General Accounting Office recommended that an appropriation in the amount of \$7,643.05 be made for payment of the claim. This committee agrees with the recommendation of the General Accounting Office and recommends that the bill be considered favorably.

The communication of the Comptroller General of the United States is as follows:

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, September 4, 1957.

HON. SAM RAYBURN,
Speaker of the House of Representatives.

DEAR MR. SPEAKER: Pursuant to the act of April 10, 1928 (45 Stat. 413, 31 U. S. C. 236), we have the honor to transmit herewith our report and recommendation to the Congress concerning the claim of the Western Union Telegraph Co. against the United States, with the request that you present the same to the House of Representatives.

A duplicate of this report is being transmitted to the President of the Senate.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, September 4, 1957.

The CONGRESS:

Pursuant to the act of April 10, 1928 (45 Stat. 413, 31 U. S. C. 236), we have the honor to make the following report and recommendation on a claim of the Western Union Telegraph Co., Operating Department, 60 Hudson Street, New York, N. Y., for \$7,643.05 on account of a loss of funds received for the account of said company by authorized personnel of the Army at Fort Sheridan, Ill.

On August 10, 1950, the United States, represented by the Secretary of the Army and the Secretary of the Air Force, and the Western Union Telegraph Co. entered into contract No. DA-(s) 49-040-ENG-2 wherein the Government, as licensor, granted permission to the Western Union Telegraph Co., as licensee, to use Government-owned equipment and facilities for the establishment and maintenance of circuit facilities and equipment to connect Army and Air Force posts, camps, or stations to commercial telegraph facilities. On March 21, 1951, the license was amended to provide for the use of such facilities for unofficial messages of military personnel when the facilities were not in official Government use. Responsibility for the collection and remittance of the charges for unofficial service was placed in the respective post signal officers by Army Special Regulations SR 105-20-3, which prescribed detailed procedures for the handling and payment of such funds.

On January 20, 1955, following discovery of a shortage in these funds, a board of officers convened at Fort Sheridan, Ill., to determine the loss of funds in the post signal communications account and to fix the responsibility therefor. On February 24, 1955, the board concluded its investigation and adjourned. The investigation showed that the Western Union Telegraph Co.'s outstanding and unpaid account against the Fort Sheridan Signal Office was as follows:

Sept. 22 to Oct. 21, 1954.....	\$3, 157. 43
Oct. 22 to Nov. 21, 1954.....	1, 832. 81
Nov. 22 to Dec. 21, 1954.....	2, 616. 74
Dec. 22 to Jan. 21, 1954.....	810. 51
Total.....	8, 417. 49

The board found that Mae G. Llewellyn, a civilian telephone supervisory employee of the Department of the Army at Fort Sheridan, had wilfully, deliberately, and intentionally appropriated and converted to her own use, funds received for the pertinent account, and falsified records pertaining to such funds.

On December 23, 1954, Mae G. Llewellyn resigned her position effective January 14, 1955.

The Department of Justice has reported that a four-count indictment was returned against Mae G. Llewellyn by a Federal grand jury in Chicago, Ill. The first count charged her with a violation of title 18, United States Code, section 1001, in the making of a false entry in a Government record. The remaining three counts charged embezzlement of moneys belonging to the United States. On May 1, 1956, the subject entered a plea of guilty to the first count and the remaining counts were dismissed. The subject was placed on probation for 6 months. No restitution has been made and no civil action has been brought in view of the subject's financial condition, and the Department of Justice has closed its file in the matter. The

former requirement that personnel handling cash under the communications procedures be bonded was abolished by the Army early in 1954, and the employee was therefore not bonded at the time of the loss.

On August 22, 1955, the Western Union Telegraph Co. filed with the commanding officer at Fort Sheridan a formal claim in the amount of \$8,417.49. Inasmuch as there was no appropriated fund out of which the claim could be paid, on October 4, 1956, the claim was transmitted to our Office by the Office, Chief of Finance, Department of the Army, with a recommendation by the Judge Advocate General that it be approved for payment. With the forwarded claim, there were transmitted checks in the amount of \$159.24, representing the available balance in the special deposit account for payment of the Western Union Telegraph Co.'s bills, and \$615.20, representing unpaid compensation due Mae G. Llewellyn at the time of her separation from service. At such time as Mae G. Llewellyn applies for civil-service annuity benefits, which will be available when she attains age 62 in 1967, those benefits will be subject to setoff against the indebtedness created by her peculations.

Settlement in the amount of \$774.44 (\$159.24 plus \$615.20) has been stated in favor of the Western Union Telegraph Co. by our office, and the company has agreed to accept the additional sum of \$7,643.05 in full and final settlement of the claim. However, since the claim did not arise from a transaction for which funds had been appropriated, there is no appropriation available for payment of this balance.

There is no apparent negligence on the part of the Western Union Telegraph Co. Army Regulation SR-105-20-3 9b (10) provides that the installation signal officer will be responsible for the collection and deposit of charges for unofficial telegraph services, and the moneys involved were received by an employee of the Government regularly authorized to act for the signal officer in that respect. Although the shortage arose from the criminal acts of a Government employee it is our view that the Government's responsibility for the funds attached immediately upon their receipt, and is not merely that of an employer for an employee's tort. In the circumstances, the claim in our judgment contains such elements of legal liability as to be deserving of the consideration of the Congress, and we therefore recommend that an appropriation in the amount of \$7,643.05 be made for payment of the claim.

If the Congress should agree with our recommendation in this matter, it is suggested that enactment of a statute in substantially the following form will accomplish the desired purpose:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Comptroller General of the United States be, and he hereby is, authorized and directed to settle and adjust the claim of The Western Union Telegraph Company on account of the shortage of The Western Union Telegraph Company funds at Fort Sheridan, Illinois, created by the peculations of an employee of the Department of the Army at Fort Sheridan, and to allow in full and final settlement of the claim the sum not to exceed \$7,643.05. There is hereby appropriated the sum of \$7,643.05, or so much thereof as may be necessary, for the payment of said claim."

JOSEPH CAMPBELL,
Comptroller General of the United States.